

## MARICOPA COUNTY EMPLOYEE MERIT SYSTEM RESOLUTION

### **SECTION 1. AUTHORIZATION**

By this Resolution, the Maricopa County Board of Supervisors hereby under the provisions of A.R.S. § 11-351 through § 11-356 authorizes the creation of the Maricopa County Employee Merit System ("Merit System").

### **SECTION 2. ADMINISTRATION**

The purpose of the Merit System is to provide a uniform and equitable system of personnel administration for employees in the Maricopa County classified service.

### **SECTION 3. MERIT PRINCIPLES TO BE OBSERVED**

The system of personnel administration for employees in the classified service shall be based upon merit principles and free from political patronage. All actions affecting the employment of personnel in the classified service shall be made according to merit as demonstrated by the qualifications and work performance of the applicant or employee.

### **SECTION 4. DEFINITIONS**

The following words and terms shall have the meaning indicated below unless the context clearly indicates otherwise:

- A. **Appeal.** A regular employee's written request that the Commission review a suspension, involuntary demotion, dismissal, furlough or reduction in force where permitted by these Rules.
- B. **Appointing Authority.** An elected official, single executive head of a department, or the designated representative authorized to act in this capacity.
- C. **Board.** The Maricopa County Board of Supervisors.
- D. **Commission.** The Maricopa County Employee Merit System Commission as created by this Resolution.
- E. **County.** Maricopa County.
- F. **Demotion.** A change in the assignment of a regular employee to a lower pay grade.
- G. **Department.** A county governmental unit designated as an appointed or elected department or a special district under the annual budget for the County.
- H. **Director.** The Maricopa County Human Resources Director or designee.

- I. **Disciplinary Action.** An action taken by an appointing authority against an employee, including oral counseling, written warning, suspension, demotion or dismissal.
- J. **Employee.** A person who is in the county service.
- K. **Furlough.** A furlough is mandatory unpaid leave imposed on classified employees as the result of a budget deficit or shortfall. A furlough may be imposed as an alternative to, or in conjunction with, a Reduction in Force (see Merit Rule 9.02). Furloughs are not suspensions or involuntary demotions for purposes of Section 16 ("Employee Appeals") of this Merit System Resolution.
- L. **Initial Probation.** A specified period of time following the employment of an employee in a budgeted position during which the work performance of the employee is evaluated. An employee may be released from initial probation for or without cause.
- M. **Position.** A specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- N. **Promotion.** The movement of an employee to a different position control number at a higher base pay grade through an announced recruitment process.
- O. **Regular.** The status an employee achieves when retained in a position of the classified service following the successful completion of the initial probation period.

## **SECTION 5. COUNTY SERVICE**

The county service shall encompass all employment with the county wherein persons are paid a wage or salary from public monies in accordance with official entries on a county payroll. The county service shall not include persons who perform services for which payment is made on a fee, claim or volunteer basis, independent contractors, patients, or inmates of county institutions, teachers, employees or personnel of the various school systems, employees in the court service as defined by the Judicial Merit System Resolution for Maricopa County, or members of boards, commissions and committees appointed by the Board.

## **SECTION 6. CLASSIFIED SERVICE**

The classified service shall include all positions in the county service except those identified as unclassified (including contract) and temporary employees. However, employees of the Maricopa County Law Enforcement Officers Merit System shall not be covered by this Resolution.

## **SECTION 7. UNCLASSIFIED SERVICE**

Within the county service there shall be the unclassified service which shall include all positions identified in ARS § 11-352(A) and (B), and any other positions expressly authorized as unclassified by applicable state law.

## **SECTION 8. HUMAN RESOURCES DEPARTMENT**

- A. There shall be in Maricopa County government a human resources department, the executive head of which shall be the Human Resources Director who shall be responsible to the Commission for the accomplishment of all personnel functions assigned by the Board to the Commission and responsible to the Board through the County Administrative Officer or designee for all other personnel functions in both the classified and the unclassified service.
- B. In the human resources department there shall be a Commission of five members appointed by the Board with the powers and duties hereinafter enumerated. The Commission shall advise the Director, the County Administrative Officer and the Board concerning employment matters.

## **SECTION 9. MERIT SYSTEM COMMISSION**

- A. Each member of the Board shall nominate a Commission member from among the qualified electors, subject to appointment by the Board. The individual shall support the application of merit principles in public employment. No more than three of such members shall be from the same political party. No member of the Commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or shall hold, or be a candidate for any elective public office except as permitted by this Resolution.
- B. Each member shall hold office for a term of four years. Of the members first appointed, two shall serve a two-year term, two a three-year term and one shall serve a four-year term. In order to maintain the staggered term expiration dates, the following process will be followed: If a member is not reappointed upon the expiration of his/her current term nor is a new member appointed, the current member will continue to serve out the new term until a successor is appointed and qualified. The successor, when appointed, shall serve out the unexpired portion of the new term. Appointment to fill a vacancy caused by other than expiration of term shall also be for the unexpired portion of the term.
- C. A member of the Commission may be removed by the Board for cause. In addition, any one of the following shall constitute the resignation of a Commissioner and authorize the Board member for the District in which the resignation occurred to appoint a new member to fill the unexpired term so vacated:
  - 1. Absence from three consecutive regular meetings without being excused by the Commission.
  - 2. Becoming a candidate for any elective public office except as defined by this Resolution.
  - 3. Accepting any appointive office or employment in the county service.
- D. At its first meeting of each year, the Commission shall elect one of its members as chairman. It shall conduct meetings at such times and places as shall be specified by call of a majority of the Commission or of the chairman. At least four meetings shall be held each year. Three members shall constitute a quorum for the transaction of business. A majority of the quorum may take legal action in all areas of the Commission's duties and powers.

## **SECTION 10. POWERS AND DUTIES OF THE COMMISSION**

The Commission shall perform such duties and exercise such powers as are necessary to carry out the provisions of this Resolution. In addition to the duties imposed upon it elsewhere, it shall be the duty of the Commission to:

- A. Cause the Director to prepare such policies and procedures as it may find necessary or appropriate for the administration of the Merit Rules in accordance with ARS § 11-356.
- B. Represent the public interest in the improvement of personnel administration in the county service.
- C. Advise the Board, County Administrative Officer and Director of problems concerning personnel administration.
- D. Advise and assist in fostering the interest of institutions of learning, civic, professional and employee organizations in the improvement of personnel standards in the county service.
- E. Review actions concerning the administration of personnel in the county service and make recommendations to the Board.
- F. Serve as the independent personnel board for the county under ARS § 38-532(H) and to adopt policies and procedures as it may deem necessary or appropriate under such authority.

## **SECTION 11. APPOINTMENT AND DUTIES OF THE DIRECTOR**

- A. The Director shall be a person who has had experience in the field of public personnel administration and supports merit principles in public employment.
- B. The Director, as executive head of the human resources department, shall direct and supervise all of its activities. In addition to the duties imposed elsewhere, it shall be the duty of the Director or designee to:
  - 1. Attend meetings of the Commission and act as its secretary and keep minutes of its proceedings.
  - 2. Establish and maintain a roster of all employees in the county service, in which there shall be set forth, as to each employee, the job title, pay, status and other pertinent data.
  - 3. Appoint such employees of the human resources department and such special assistants as may be necessary to carry out effectively the provisions of this Resolution.
  - 4. Develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness including training, health, counseling and welfare.
  - 5. Review the operation and effect of this Resolution and of the Rules and report findings and recommendations to the Commission, the County Administrative Officer and the Board.
  - 6. Perform any other lawful act considered necessary or desirable to carry out the purposes and provisions of this Resolution.
  - 7. Make annual reports to the Board and Commission and such special reports as considered desirable regarding personnel administration in the county service and recommendations for improvements.

## **SECTION 12. MERIT SYSTEM RULES**

- A. The Director shall prepare and submit to the Commission proposed Rules for the classified service. Reasonable notice shall be given to all appointing authorities; appointing authorities and employees shall be given an opportunity, upon request, to appear before the Commission to express their views thereon.
- B. Rules or amendments which are approved by the Commission shall be submitted through the County Administrative Officer to the Board. If no action is taken by the Board within 60 days after submission, then the Rules or amendments shall automatically become effective. The Rules shall provide for:
  - 1. An employment process to assess the relative fitness of applicants.
  - 2. Promotion practices which shall give consideration based upon qualifications and work performance. Vacancies shall be filled by promotion whenever practicable.
  - 3. Criteria for the rejection or competitive screening of applicants and candidates.
  - 4. The establishment of lists for employment and promotion, upon which lists shall be placed the names of candidates, and where applicable, their ranking on the respective assessment processes.
  - 5. Periods of initial probationary employment, during which time the employee may be released or demoted without cause.
  - 6. Transfer from a position under one appointing authority to a position under a different appointing authority.
  - 7. Reductions in force resulting from lack of funds, lack of work, or abolishment of positions; and for transfer of employees who have been subject to a reduction in force.
  - 8. Dismissal or demotion of regular employees only for cause.
  - 9. Suspension without pay of regular employees only for cause.
  - 10. Establishment of a plan for resolving employee concerns and complaints and alleged unlawful discrimination.
  - 11. Such other Rules, not inconsistent with this Resolution, as may be proper and necessary for its enforcement.

## **SECTION 13. APPLICANT ASSESSMENT**

- A. An assessment process shall be used to evaluate the qualifications of applicants to perform the duties of positions for which a list is to be established.
- B. The assessment process may involve a written examination, review of applications and attachments, oral board, demonstration of skill, other assessment techniques which may be developed or any of the above in combination.

## **SECTION 14. MINIMUM QUALIFICATIONS**

The minimum qualifications prescribed for any county employment shall not be less than those prescribed by law. Changes to the minimum qualifications prescribed for any county employment that increase educational requirements shall have no effect on the eligibility of incumbents to continue in their employment unless such change is required by state or federal law.

## **SECTION 15. SUSPENSION, DEMOTION, DISMISSAL**

- A. An appointing authority may discipline, suspend, demote or dismiss a regular employee only for cause. Each of the following constitutes authorized cause for discipline, suspension, demotion or dismissal of a regular employee under this Resolution:
1. Fraud in securing or maintaining employment.
  2. Incompetency.
  3. Inefficiency.
  4. Abuse of leave.
  5. Neglect of duty.
  6. Insubordination.
  7. Dishonesty.
  8. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, tranquilizer, hallucinogenic or any other drug listed and/or defined in ARS § 13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or in the lawful performance of the employee's regularly assigned duties.
  9. Violation of a Board authorized policy which supports a drug-free workplace or which opposes substance abuse.
  10. Absence without authorized leave.
  11. Charged with the commission of a criminal act which affects the employee's suitability for continued employment.
  12. Conviction of a criminal act which affects the employee's suitability for continued employment.
  13. Discourteous treatment of the public or fellow employees.
  14. Improper political activity as proscribed by state or federal law or by this Resolution.
  15. Unlawful discrimination, including harassment, by an employee against or in favor of another person.
  16. Misuse of government property.
  17. Violation of county or departmental policies or procedures.
  18. Violation of the Code of Ethics.
- B. An appointing authority, subject to ARS § 11-356 and these Rules may suspend a regular employee for cause without pay for a period not exceeding 30 calendar days for any single cause. The appointing authority shall give the employee written notice of the intention to effect any such suspension and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for the suspension in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- C. An appointing authority, subject to ARS § 11-356 and these Rules may demote a regular employee for cause from a position in any given pay grade to a position in a lower pay grade for which the employee possesses necessary qualifications. The appointing authority shall give the employee written notice of the intention to effect any such demotion and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for the

- demotion in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- D. An appointing authority, subject to ARS § 11-356 and these Rules may dismiss a regular employee for cause. The appointing authority shall give the employee written notice of the intention to effect any such dismissal and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for dismissal in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
  - E. Inability for medical reasons is cause to dismiss but connotes no improper conduct on the part of the employee nor does it contemplate corrective or progressive steps.
  - F. In addition to the causes prescribed herein, the Commission or the Board may establish other causes that are deemed necessary.

#### **SECTION 16. APPEAL BY EMPLOYEE**

- A. Any regular employee who is suspended, involuntarily demoted or dismissed may appeal to the Commission. The appeal shall be in writing and filed with the Director or designee, as ex officio Clerk of the Commission, not later than ten business days following the date of personal delivery or certified mailing of the written notice suspending, demoting, or dismissing the employee by the appointing authority. If mailed, the notice shall be sent to the employee's last known address.
- B. A copy of such appeal shall be forwarded by the Director to the appointing authority. The ex officio Clerk of the Commission shall thereupon assign a time and place for a hearing and shall give notice thereof to all parties concerned. Within 20 days from the filing of the appeal, the Commission shall commence the hearing to either affirm, modify, revoke the appeal, or continue the hearing date for good cause shown.
- C. The appellant may appear personally, produce evidence, have legal counsel or lay representation. Unless requested otherwise by the appellant, hearings are conducted privately. Private hearings restrict who may be present while testimony is being taken. Upon the conclusion of taking testimony, the entire proceedings become a matter of public record.
- D. The Commission may request the Board to issue and enforce subpoenas to compel attendance of any person and the production of documents relevant to the issues in the appeal.
- E. Both the employee and appointing authority shall be notified reasonably in advance of the hearing. The Commission, or a duly appointed hearing officer, shall conduct the hearing. The conduct of the hearing shall not be bound by technical rules of evidence. An official record of the hearing, including exhibits, shall be made.
- F. If, after the hearing, a majority of the Commission members present at the meeting where the vote is taken determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise, the appeal shall be dismissed. The Commission shall have the power to determine the amount of back wages and leave accruals, where appropriate, and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the county service.
- G. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in ARS § 12-901 et seq. The appointing authority shall have 35 days from the date of the decision of the Commission to

either file for an administrative review or to take such measures as are necessary to comply with the decision of the Commission.

- H. An employee who has been subject to a reduction in force by reason of lack of funds, lack of work, or abolition of position may file an appeal with the Commission only on the grounds that the calculation of the employee's retention points was inaccurate and resulted in that employee being selected for separation before another.
- I. An employee who has been subject to a furlough may file an appeal with the Commission only on the grounds that that the furlough was imposed in an arbitrary manner that negatively impacted the employee more than other similarly situated employees in the employee's division in the same market range title.

#### **SECTION 17. NONDISCRIMINATION**

Unlawful discrimination, as defined by state or federal law, in any manner by a county official, appointing authority, or employee against or in favor of any applicant or employee because of race, gender, religion, color, national origin, age or disability shall be prohibited.

#### **SECTION 18. POLITICAL ACTIVITY**

- A. It is the intent of Maricopa County to conform to the public policy that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, government integrity, and the efficient delivery of governmental services and to ensure that employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in political activity.
- B. Regular employees shall not:
  - 1. Make political endorsements by which they identify themselves as county employees.
  - 2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
- C. A regular employee shall not be a member of any national, state, or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or offer himself as a candidate for nomination or election to any public office which is either paid or partisan by filing nomination papers or making a formal public declaration of candidacy, or take part in the management or affairs of any political party or in the management of any partisan campaign or recall effort, except than an employee may:
  - 1. Express his opinions;
  - 2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues;
  - 3. Cast a vote;
  - 4. Sign nomination or recall petitions;
  - 5. Make contributions to candidates, political parties, or campaign committees contributing to candidates or advocating the election or defeat of candidates;
  - 6. Circulate candidate nomination petitions or recall petitions;
  - 7. Engage in activities to advocate the election or defeat of any candidates;



8. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.
  9. Campaign for himself and hold unpaid, nonpartisan, public office;
  10. Campaign for or against ballot issues, referendum questions, constitutional amendments, municipal ordinances, etc.
- D. A regular employee shall not engage in any activity permitted by this Section while on duty, while in uniform or at public expense unless otherwise provided by state or federal law. Regular employees holding positions in the Maricopa County Elections Department and any other regular employee who may have exclusive possession and control over ballots, shall be prohibited from engaging in the activities permitted other regular employees pursuant to Section 18.C.6. through C.9. in any election to be tabulated by Maricopa County. Regular employees serving as legal counsel to the elections department on a particular matter shall be prohibited from engaging in the activities permitted other county employees pursuant to Section 18.C.6. through C.9. in an election for that particular matter.
- E. The provisions of this section shall not apply to school board elections or community college district governing board elections, and a regular employee may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board.
- F. A regular employee shall not be discriminated against for engaging in or not engaging in any activity permitted by this section.
- G. No person shall solicit a regular employee to engage in or not engage in activities permitted by this Section with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.
- H. Any person in the county service who violates any of the provisions of this section shall be subject to disciplinary action up to and including dismissal.

#### **SECTION 19. NONCONFORMITY WITH FEDERAL AND STATE LAW OR REGULATION**

If any provision of this Resolution conflicts or is inconsistent with state or federal law or regulations, the Commission is authorized to vary the terms of its Rules to the extent necessary to comply with law and/or conditions established for federal and state grants.

#### **SECTION 20. COMPLIANCE**

When dealing with regular employees, appointing authorities shall conform to, comply with, and aid in carrying into effect the provisions of this Resolution and the Rules adopted hereunder.

# MARICOPA COUNTY EMPLOYEE MERIT SYSTEM RULES

## RULE 1 - DEFINITIONS

The following words and phrases used in these Rules have the defined meanings hereinafter set forth unless otherwise clearly indicated in the context:

- 1.01 APPEAL:** a regular employee's written request that the Commission review a suspension, involuntary demotion, dismissal, furlough or reduction in force where permitted by these Rules.
- 1.02 APPELLANT:** a regular employee who has filed an appeal with the Commission.
- 1.03 APPLICANT:** a person who has filed an application for employment in the classified service.
- 1.04 APPOINTING AUTHORITY:** an elected official, the single administrative or executive head of a department, or the designated representative authorized to act in this capacity.
- 1.05 ASSESSMENT:** process used to evaluate the qualifications of applicants to perform the duties of positions.
- 1.06 AUTHORIZED RETIREMENT SYSTEM/PLAN:** the statutorily-authorized Arizona retirement system into which a County employee is required to contribute with matching contributions by the County. (e.g., Arizona State Retirement System, Public Safety Personnel Retirement System, County Attorney Investigators Retirement Plan, and Corrections Officer Retirement Plan.)
- 1.07 BASE PAY RATE:** an employee's established rate of pay, exclusive of any differentials, incentives, or other pay.
- 1.08 BOARD:** the Maricopa County Board of Supervisors.
- 1.09 CANDIDATE:** an applicant approved for participation in an assessment process.
- 1.10 CERTIFICATION:** the list of names of qualified eligibles referred by the Director to an appointing authority.
- 1.11 CLASSIFIED SERVICE:** includes all positions in the county service except those identified as unclassified (including contract) and temporary employees. However, employees of the Maricopa County Law Enforcement Officers Merit System shall not be covered by this Merit System.
- 1.12 COMMISSION:** the Maricopa County Employee Merit System Commission.
- 1.13 COUNTY:** Maricopa County.

- 1.14 COUNTY ADMINISTRATIVE MANUAL:** the official Maricopa County manual containing the policies and procedures approved by the County Administrative Officer (and where applicable, the Human Resources Director) to provide guidance to county managers and supervisors on the proper administration of County policies and plans.
- 1.15 COUNTY SERVICE:** county service shall encompass all employment with the county wherein persons are paid a wage or salary from public monies in accordance with official entries on a county payroll. However, the county service shall not include persons who perform services for which payment is made on a fee, claim, or volunteer basis, independent contractors, patients, or inmates of county institutions, teachers, employees or personnel of the various school systems, employees in the court service as defined by the Judicial Merit System Resolution for Maricopa County, or members of boards, commissions and committees appointed by the Board.
- 1.16 CREDITED SERVICE:** the amount of credited service time on account with the authorized retirement system into which the employee currently contributes or continuous years of service with Maricopa County, whichever is greater. For purposes of this definition, retirement from a position in one authorized retirement system and re-hire into a position in another authorized retirement system (i.e. from Public Safety Personnel Retirement System into Arizona State Retirement System) on the next business or scheduled work day does not constitute continuous service.
- 1.17 DAYS:** calendar days unless the context otherwise requires.
- 1.18 DEMOTION:** a change in the assignment of a regular employee to a lower pay grade.
- 1.19 DEPARTMENT:** a county governmental unit designated as an appointed or elected department or a special district under the annual budget for the County.
- 1.20 DIRECTOR:** the Maricopa County Human Resources Director or designee.
- 1.21 DISCIPLINARY ACTION:** an action taken by an appointing authority against an employee, including oral counseling, written warning, suspension, demotion or dismissal.
- 1.22 DISMISSAL:** the involuntary separation of a regular employee for disciplinary reasons or as a result of unsatisfactory service.
- 1.23 ELIGIBLE:** a person who has attained a passing score on an assessment process for a specific type of job.
- 1.24 EMPLOYEE:** a person who is in the county service.
- 1.25 FAMILY MEDICAL LEAVE ACT (FMLA):** the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.), the federal regulations implementing the FMLA (29 C.F.R.

Part 35) and applicable case law. The FMLA allows eligible employees to take job-protected leave, or to use available paid leave if the employee has sufficient accruals, for up to a total of 12 work weeks in a twelve (12) month period. The FMLA allows, and this policy requires, employees to use Personal Leave or Family/Medical Leave for FMLA leave if accruals are available.

**1.26 FMLA-QUALIFYING EVENT:**

1. The birth of a child and to care for the newborn child;
2. The placement of a child with the employee for adoption or foster care;
3. The employee's care of a immediate family member (as defined by the FMLA) with a Serious Health Condition; or
4. The employee's own Serious Health Condition.

**1.27 FURLOUGH:** a furlough is mandatory unpaid leave imposed on classified employees as the result of a budget deficit or shortfall. A furlough may be imposed as an alternative to, or in conjunction with a Reduction in Force (see Merit Rule 9.02). Furloughs are not suspensions or involuntary demotions for purposes of Rule 10 ("Appeals") of these Employee Merit System Rules.

**1.28 HEARING OFFICER:** a person appointed by the Commission or its chairman to hear appeals on behalf of the Commission.

**1.29 INITIAL PROBATION:** a specified period of time following the employment, or reemployment, of an employee during which the work performance of the employee is evaluated. An initial probationary employee serves in an unclassified status, and may be released from initial probation for or without cause.

**1.30 JOB ANNOUNCEMENT:** the official public issuance of notice that a recruitment is being conducted.

**1.31 MARICOPA COUNTY EMPLOYEE COMPENSATION PLAN:** the plan approved by the Board of Supervisors establishing Maricopa County's employee compensation strategy and addressing related matters.

**1.32 POSITION:** a specific employment, whether occupied or vacant, involving duties requiring the services of one person.

**1.33 PROBATIONARY EMPLOYEE:** a person who is serving an initial probation period in the classified service.

**1.34 PROMOTION:** the movement of an employee to a different position control number at a higher pay grade through an announced recruitment process.

**1.35 REASSIGNMENT:** a change in the assignment of an employee from one position control number to another under the same appointing authority at the same pay grade.

- 1.36 REDUCTION IN FORCE (RIF):** the separation of a regular employee for reasons of lack of funds, lack of work, or abolishment of position.
- 1.37 REGISTER:** an official list of eligibles for a particular job which shall be used by the appointing authority for selection for employment in the classified service.
- 1.38 REGULAR:** an employee occupying a classified position who has successfully completed an initial probationary period. (This should not be confused with an employee who is eligible to be considered for benefits.)
- 1.39 RESOLUTION:** the Maricopa County Resolution of December 22, 1969 that established the Maricopa County Employee Merit System effective January 1, 1970 and all subsequent amendments.
- 1.40 RESPONDENT:** the county department against which an appeal is filed.
- 1.41 SERIOUS HEALTH CONDITION:** an illness, injury, impairment or physical or mental condition that is defined as a serious health condition by the FMLA. Such conditions generally involve:
1. inpatient care in a hospital, hospice, or residential medical care facility;
  2. a chronic condition, such as asthma; or,
  3. a continuing regimen of treatment by a health care provider for more than three (3) consecutive days.
- 1.42 SUSPENSION:** an involuntary leave without compensation of a regular employee for disciplinary reasons.
- 1.43 TRANSFER:** a movement of an employee from a position under one appointing authority to another position under a different appointing authority.

## **RULE 2 - GENERAL PROVISIONS**

### **2.01 PURPOSE**

The purpose of these Rules is to implement the requirements of the Resolution which establishes for Maricopa County a system of personnel administration based on merit principles.

### **2.02 RULES**

- A. These Rules shall apply to all classified positions in the county service.
- B. Amendments to the Rules may be made by the Commission from time to time in accordance with the Resolution.

### **2.03 CERTIFICATION OF PAYROLLS**

The Director or designee, in cooperation with disbursing authorities, shall provide for such audit and certification of personnel service payments as is necessary to insure that all persons in the county service, for whom claim for payment of salaries or compensation is made, are holding positions as provided by law and these Rules. The Director or designee may withhold certification from a payroll or any specific item or items thereon for failure to comply with the Resolution or these Rules.

### **2.04 DIRECTOR'S DUTIES**

- A. To serve as the executive and administrative head of the Maricopa County Human Resources Department and the Employee Merit System; to program, direct, and supervise all of its administrative and technical activities.
- B. To attend all meetings of the Commission and provide for the recording of the minutes of its proceedings and be the official custodian of all its records, and keep the members of the Commission informed of all important matters occurring in the administration of the personnel program.
- C. To establish and maintain a roster of all classified employees of the county in which there shall be set forth as to each position and employee, the compensation band title, position control number, the salary, and any other necessary data.
- D. To appoint, under the provisions of the Resolution and these Rules, such employees and such experts and special assistants as may be necessary to carry out effectively the provisions of the Resolution and Rules subject to budget limitations and any laws pertaining thereto.
- E. To formulate and prescribe administrative procedures and forms consistent with these Rules and to publish them with reasonable instructions and guides in the form of personnel manuals.
- F. To develop, in cooperation with appointing authorities and others, training, educational, and staff development programs for employees in departments covered by these Rules.
- G. To announce, recruit, assess, and otherwise provide staffing services to the departments as provided for in these Rules.
- H. To make and publish a fiscal year-end report regarding the work of the Department and the Commission, and such special reports as may be requested by the Commission or other appropriate authorities.

- I. To perform other acts and functions consistent with the Resolution and these Rules necessary or desirable to carry out their purpose and provide personnel administration for the county service.
- J. All duties of the Director may be subject to delegation.

#### **2.05 PERFORMANCE APPRAISAL**

- A. The Director shall develop a performance appraisal system and all employees in the classified service shall be evaluated in accordance with this system at established intervals of not more than 12 months.
- B. Performance appraisals shall be considered in determining training needs, salary advancements, the order of reductions in force, transfer, and as a means for identifying employees who should be promoted, demoted or dismissed.

#### **2.06 PROGRAMS FOR EMPLOYEE DEVELOPMENT**

The Director shall cooperate with appointing authorities in developing and promoting programs for employee training, safety, morale, work motivation, health, retirement counseling, and welfare.

#### **2.07 EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES**

The Director may establish a placement program for individuals with disabilities, and, with the approval of the Commission, establish special procedures that may vary the assessment, certification and selection procedures for the established placement program for individuals with disabilities.

#### **2.08 MEMBERSHIP IN ORGANIZATIONS**

- A. Employees in the classified service may join and hold office in any employee organization, labor union, or professional association in which they are eligible for membership, provided that such employee organization, labor union or professional association is not organized for any illegal purpose or primarily engaged in activities contrary to law, and provided further that membership in such organization does not create a conflict of interest.
- B. No person in the county service shall attempt to prohibit or intimidate any employee in the classified service from belonging to or holding office in any lawful organization.
- C. Membership in such organization shall not be considered in any personnel action, including promotion, demotion, suspension or dismissal.

#### **2.09 EMPLOYEE CONCERNS RESOLUTION PROCEDURE**

- A. The Director shall establish a procedure to address employee concerns through which employees may obtain information regarding the terms and conditions of their employment, and to ensure that management discretion is exercised in a reasonable manner.
- B. The procedure of each department shall conform to the established procedure.

#### **2.10 DISCRIMINATION IN EMPLOYMENT**

The Director shall establish a procedure to address employee complaints regarding discrimination in employment. No appointing authority shall, because of the political

affiliations, race, sex, religion, color, national origin, ancestry, age, disability, or any other non-merit factor (as determined by the Maricopa County Employee Merit System Commission) of any person:

- A. Refuse to appoint or promote any individual.
- B. Suspend, demote or discharge an employee from a position in the classified service.
- C. Discriminate in compensation or in terms, conditions and privileges of employment.
- D. Refuse to review any complaint based on discrimination, including disability, by an employee regardless of status or an applicant.

### **2.11 REPRISALS**

An appointing authority shall not take disciplinary or punitive action against an employee, nor impede or interfere with the exercise of the employee's right of review, appeal, or of any other employee right under the Resolution or these Rules.

### **2.12 RECORDS AND REPORTS**

- A. Personnel Action Forms: The Director shall prescribe personnel action forms which departments shall use to report personnel actions and status changes as required. The Director shall inform the departments which personnel actions and status changes must be reported.
- B. Department Personnel Records: The Director shall prescribe necessary information and the general format for department personnel records.

### **2.13 SERVICE OF NOTICE**

Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any person or department by the Commission or the Director, such notice, paper or document may be personally served or it may be served by certified mail to the last known residence or business address of the addressee. Service is complete and effective upon mailing.

### **2.14 SEVERABILITY**

If any provision of these Rules, or the application thereof to any person or circumstances, is held invalid, the remainder of the Rules, or the application of such provision to other persons or circumstances, shall not be affected thereby.

### **2.15 CONFLICT WITH FEDERAL AND STATE REQUIREMENTS**

Any provision of these Rules which conflicts or is inconsistent with Arizona Revised Statutes, federal law, regulations or standards governing the grant of federal funds or state assistance of positions in a department shall not be applicable to such positions.



## **RULE 3 - MERIT SYSTEM COMMISSION PROCEDURES**

### **3.01 COMMISSION MEETINGS**

The Commission shall hold meetings in accordance with the Arizona Open Meeting Act (ARS § 38-431 et seq,) and Section 9D of the Resolution. Meetings shall be held as often as necessary but at least four times a year. The time and place shall be fixed by the Commission.

### **3.02 AGENDA**

All matters to be presented for consideration by the Commission at a meeting shall be placed on the Commission's agenda as soon as possible. The agenda shall be provided to each member of the Commission prior to such meeting.

### **3.03 NOTICE OF MEETINGS**

- A. Public notice of Commission meetings shall be given (as required by ARS § 38-431.02).
- B. Appointing authorities shall be informed of the regular schedule of Commission meetings. When an item of special interest to a department or departments is to be considered by the Commission, the Director shall notify such department(s).

### **3.04 MINUTES**

The Director shall provide for the recording of the official actions of the Commission in its minutes. The time and place of each meeting of the Commission, the Commissioners present, all official acts of the Commission and, when requested, a Commissioner's dissent and reasons shall be recorded in the minutes. The Director shall have the minutes transcribed and presented for approval or amendment at the next Commission meeting. The minutes, or a true copy, shall be open to public inspection, except minutes of the executive session.

## **RULE 4 - ANNOUNCEMENTS AND ASSESSMENTS**

### **4.01 JOB ANNOUNCEMENTS**

- A. Content: The public announcement of recruitments shall specify:
  - 1. Title of the position(s).
  - 2. Pay information.
  - 3. Essential job tasks (or where this information may be obtained).
  - 4. Position qualifications.
  - 5. Final date for receipt of applications (or statement of continuous recruitment).
  - 6. Selection procedure(s).
  - 7. How and where to apply.
- B. Distribution and Duration: Job announcements for recruitments shall be by public notice for no less than five calendar days or on a continuous basis. Every reasonable effort shall be made to recruit qualified persons. Recruitment information may be distributed to county departments, state employment service offices, news media, educational institutions, and such other individuals and organizations as the Director may deem appropriate. Announcements for internal recruitments will be distributed to county departments, and all reasonable efforts will be made to communicate with county employees concerning internal opportunities.

### **4.02 APPLICATIONS**

- A. Official Forms: All applications shall be on the forms prescribed by the Director.
- B. Filing Applications:
  - 1. Applications must be filed as designated in the announcement on or before the recruitment closing date specified in the announcement. Applications submitted in response to a continuous recruitment may be accepted at any time and assessments held as the Director deems necessary and desirable for staffing the county service.
  - 2. Applicants will be required to furnish evidence of proof of citizenship or authority to work in the United States and evidence of identity pursuant to the Immigration Reform Act of 1986 at the time of hire.
  - 3. On behalf of the appointing authority, the Director may require applicants to furnish references, evidence of education, or other qualifications as may be deemed necessary according to the job requirements. Such evidence shall be furnished by the applicants at their own expense.
- C. Qualifications: Applicants who meet the minimum age requirement of any applicable Arizona Revised Statute, the qualifications designated on the job announcement, and the provisions of the Resolution and these Rules are eligible to compete for announced positions. All applicants must possess the necessary qualifications to successfully perform the essential job tasks of the position. Admittance to an assessment process shall not constitute assurance of a passing rating.
- D. Temporary Waiving of Educational Requirements: If an appointing authority so authorizes, a job announcement may provide that applicants who do not meet

minimum educational requirements for the position, but who will meet these requirements as a result of the completion of further scheduled education for the current school term, may be allowed to compete. Successful applicants participating in an assessment process under this provision shall have their names entered on the register in the same manner as other successful applicants, and their names may be certified to the appointing authority. If appointed, they must furnish the appointing authority acceptable evidence of their qualifications before the effective date of the appointment. Failure to complete the required educational work will cause the removal of applicants' names from the register or the cancellation of their appointments.

- E. Disqualification of Applicants: The Director may (1) refuse to evaluate applicants; (2) after evaluation may disqualify such applicants; (3) remove their names from the register; (4) refuse to certify eligibles from registers; or (5) may consult with the appointing authority in taking steps to remove persons already appointed, if it is found that applicants:
1. Do not meet any one of the preliminary requirements established for the position;
  2. Are addicted to the use of narcotics or the habitual use of intoxicants; or
  3. Have made a false statement of material fact in the application; or
  4. Have used or attempted to use political pressure or bribery to secure an advantage in the assessment process or in the appointment to a position in the county service; or
  5. Have directly or indirectly obtained information regarding confidential assessment materials to which, as applicants, they were not entitled; or
  6. Have failed to submit an application correctly or within the prescribed time limits; or
  7. Have taken part in the compilation, administration, or scoring of the assessment process for which they are applicants; or
  8. Have previously been dismissed from a position in the county service for cause; or
  9. Have been convicted of a felony; or
  10. Have been convicted of any crime involving the use of narcotic or habit-forming drugs; or
  11. Are charged with or under indictment for any crime which upon conviction would cause denial of eligibility under this Rule; or
  12. Otherwise have willfully violated the provision of the Resolution or these Rules.

#### **4.03 NATURE OF ASSESSMENTS**

- A. Content and Nature: Assessments shall be job-related, practical in nature, and constructed or designed to evaluate the applicant's knowledge, skills and/or abilities to perform the duties usually assigned to the position for which the applicant is being assessed. Such assessments may include, but are not limited to, the following:
1. Written.

2. Oral Board.
  3. Demonstration or performance.
  4. Evaluation of experience, educational background, and skills.
  5. Other objective and job-related methods of assessment.
- B. Objectivity of Ratings: All examinations, evaluations, ratings, and other assessment instruments shall be rated impartially and as objectively as possible.
- C. Conduct of Assessments: Applicants shall be required to meet the position qualifications and assessment standards in effect at the time of application. Assessments shall be conducted either on a qualifying or competitive basis as appropriate. At the discretion of the Director, assessments may be conducted in as many places in the county as necessary. When practical and necessary, the Director may designate proctors, administrators, and/or assessors from other county departments to conduct assessments under procedures prescribed by the Director.
- D. Oral Board Examinations. When an oral board examination is used as part or all of the assessment process, the oral board shall be conducted and a proposed rating made by a panel of two or more qualified individuals approved by the Director. Any member of an oral board panel who is related to a candidate being examined, or who has a conflict of interest with the candidate, shall request disqualification as a panel member for that candidate's examination.

#### **4.04 EVALUATING ASSESSMENT RESULTS**

In any assessment process, the minimum rating or standing through which eligibility on a register may be earned shall be determined by the Director. Such final rating may be based upon a weighted average of the various parts of the assessment process.

#### **4.05 NOTICE OF ASSESSMENT RESULTS**

Candidates shall receive written or oral notification of assessment results unless otherwise specified in the job announcement.

#### **4.06 RETAKING ASSESSMENTS**

- A. Performance examinations or tests of skills may be retaken or repeated within reasonable limits of scheduling.
- B. Written tests may not be retaken for a period of 90 calendar days from the date of the examination. In each case of a repeated written test, the most recent test score achieved shall be used to place the eligible's name on the register.

#### **4.07 INSPECTION OF ANSWER SHEET FOR WRITTEN EXAM**

- A. A candidate may compare his answer sheet for any written examination with the scoring key for the purpose of determining whether his answers have been accurately scored at such location and with such security procedures as may be designated by the Director. A candidate must request inspection in writing to the Director within 30 days of the written exam administration. When inspection is approved by the Director, such inspection shall be under the supervision of a Human Resources Department staff member or other authorized representative. Answer sheets for copyrighted or standardized examinations may be excluded by the Director from such inspection. Candidates who review their examination

papers with a scoring key must wait 90 calendar days from that time before retaking a written examination where the same test materials are to be used.

- B. Only a candidate or the candidate's representative with the candidate's written authorization, may inspect a candidate's answer sheet.

#### **4.08 ADMINISTRATIVE REVIEW**

Upon written request stating the basis for the request, the Director shall review the accuracy of the determination of an individual's competitive screening or disqualification, assessment of education and experience, or oral board rating. Such requests must be received within 30 calendar days of the individual's notification of evaluation results.

#### **4.09 ADJUSTMENT OF ERRORS**

A scoring error will be corrected if brought to the attention of the Director within 30 days of issuance of an assessment rating to an individual. Such action shall not invalidate any certification list already prepared.

#### **4.10 SPECIAL ASSESSMENTS**

Except in the case of an error affecting an individual or in order to provide a reasonable accommodation under the Americans with Disabilities Act, no individual shall be assessed in any manner not afforded to other individuals.

#### **4.11 ASSESSMENT RECORDS**

The Director shall be responsible for the maintenance of all records pertinent to assessment and selection programs. Applications and other records shall be kept during the life of the register or as long as may be required by law.

#### **4.12 PREFERENCE POINTS**

An individual who is not a current employee and attains a passing score on an assessment process, may have preference points added to the final rating on the assessment process in keeping with ARS § 38-492.

## **RULE 5 - REGISTERS**

### **5.01 RESPONSIBILITY FOR MAINTENANCE OF REGISTERS**

It shall be the duty of each appointing authority to notify the Director as far in advance as possible of vacancies or anticipated vacancies and to cooperate in manpower forecasting and planning and turnover analysis studies. The Director shall be responsible for the establishment and maintenance of appropriate registers and for the determination of the adequacy of existing registers and for the appropriate assignment of applicants to registers.

### **5.02 EMPLOYMENT REGISTERS**

- A. At the conclusion of assessment processes, the Director shall prepare a register or merge the names of the new eligibles with those on the exiting register. In the case of a continuous recruitment, the names of eligibles shall be continuously merged in registers in the order of their final composite scores from the assessment(s).
- B. Applicants who are current employees may be eligible for placement on the register if:
  - 1. They are not on initial probation (unless waived by the Director); and
  - 2. Meet the necessary position requirements; and
  - 3. Have passed the assessment process(es) in effect.
- C. Upon written request, former regular status employees separated as a result of a formal reduction in force shall be entitled within three months from the date of separation to have their names placed on registers for positions for which they qualify on the same or lower pay grade as the salary held at the time of separation. Their names shall remain on the register(s) for a period of six months from the date of separation.
- D. Although not county employees, for purposes of sections 5.02B. and C., the county will offer reciprocal treatment for employees of the Superior Court of Arizona in Maricopa County as provided in the Judicial Merit System for county employees.

### **5.03 USE OF REGISTERS**

The Director may determine the order in which registers will be used to fill vacancies. Usually, registers will be used in the following order:

- A. First, former regular status employees on the same or higher pay grade as the salary of the position to be filled who have been affected by a reduction in force.
- B. Second, employees, but only if the employee's score falls within 10 points of the top non-employee.
- C. Third, other eligibles in the order of their final scores.
- D. Although not county employees, for purposes of sections 5.03A. and B., the county will offer reciprocal treatment for employees of the Superior Court of Arizona in Maricopa County as provided in the Judicial Merit System for county employees.

### **5.04 USE OF RELATED REGISTERS**

If a vacancy exists for a position for which there is no appropriate register, the Director may prepare a certification list for the vacancy from one or more existing related registers.

#### **5.05 DURATION OF REGISTERS**

- A. Names of eligibles will be removed from registers after six months from the date placed on the register, unless the register is specifically extended by the Director for a period not to exceed an additional six months.
- B. The Director may abolish a register at any time in the event of a new assessment process, changes in position duties or requirements, or whenever an existing register has ceased to meet the needs for adequate placement in the county service.

#### **5.06 REMOVAL OF NAMES FROM A REGISTER**

- A. Removal: The Director may remove the name of an eligible from a register at any time for any one of the following reasons:
  - 1. Any of the reasons specified in Rule 4.02E.
  - 2. Failure of the eligible to respond to correspondence (including returned mail).
  - 3. Receipt by the Director or the appointing authority of any communication from the eligible that he/she no longer desires to remain on the register or is no longer available for appointment.
  - 4. Refusal by the eligible of an offer of probationary appointment to county or court service.
  - 5. Appointment of the eligible to a position or assignment in the county or court service.
  - 6. Rejection of the eligible by the only department utilizing the register or, if utilized by more than one department, rejection as a result of three employment interviews.
  - 7. Refusal by the eligible of three interviews.
  - 8. Expiration of the six-month eligibility on the register, unless the register has been extended.
  - 9. Failure of the eligible to appear for a scheduled appointment relating to the employment process.
  - 10. Separation of an eligible from county or court service.
  - 11. Abolishment of the register.
- B. Notification: An eligible will be notified orally, by mail, or any other manner prescribed by the Director, when removed from registers for either of the following reasons:
  - 1. Rejection of the eligible by the only department utilizing the register or, if utilized by more than one department, rejection as a result of three employment interviews.
  - 2. Abolishment of the register.

## **RULE 6 - CERTIFICATION AND SELECTION OF ELIGIBLES**

### **6.01 REQUEST FOR CERTIFICATION OF ELIGIBLES**

Appointing authorities shall request certification of eligibles to fill positions in the classified service by submitting an official request in the manner prescribed by the Director.

### **6.02 AVAILABILITY OF ELIGIBLES**

Eligibles will be certified on the basis of their indicated availability for employment consideration. It shall be the responsibility of eligibles to notify the Director of any change of address or other change affecting availability for appointment.

### **6.03 CERTIFICATION OF ELIGIBLES**

Upon receipt of a written request from the appointing authority, the Director shall certify a list of eligibles to the department. The appointing authority will include in the request the number of eligibles to be certified which may range from a minimum of five names to a maximum of the entire register. If the number of eligibles for a position is fewer than five, then the number available may be certified. If more than one position is included in the department's request, the minimum number of eligibles certified shall be increased by one name for each additional position.

### **6.04 SELECTIVE CERTIFICATION**

The Director may make a selective certification of eligibles to an appointing authority from the appropriate register when the vacancy is for a position requiring specialized knowledge, experience, background or qualification.

### **6.05 CERTIFICATION OF TIED SCORES**

When two or more eligibles have identical final register scores and are tied for the last place to be certified, all tied eligibles will be certified and so indicated on the certification list.

### **6.06 LIFE OF A CERTIFICATION LIST**

The life of a certification list during which action may be taken should not exceed 30 calendar days from the date of issue unless extended by the Director.

### **6.07 SELECTION OF ELIGIBLES**

- A. In order to make the best selection, the appointing authority is encouraged to contact all eligibles certified of an employment interview. Under no circumstance may the appointing authority contact fewer than five or one-half of the eligibles certified whichever is greater. If the number of certified eligibles is fewer than five, all eligibles must be contacted for an employment interview.
- B. The criteria used to identify individuals for invitation to interview shall be determined and documented by the appointing authority and must be job-related and non-discriminatory.
- C. Eligibles contacted must be notified in writing of an employment interview unless the eligible can be contacted directly.



- D. The appointing authority shall notify all eligibles interviewed of the results. The appointing authority shall indicate on the forms prescribed by the Director the action taken on each eligible.
- E. The appointing authority may check references and investigate the eligibles' education and work history. If the results of these checks and investigations indicate the falsification of material fact on the application, the appointing authority shall inform the Director in writing.
- F. The appointing authority's selection must be from among the eligibles certified.

## **RULE 7 - PROBATIONARY PERIOD**

### **7.01 DURATION**

The probationary period shall be a minimum of six (6) months; it may be extended by the appointing authority for up to six (6) additional months. The Director, upon written application and justification from an appointing authority, may establish a probationary period of one (1) year for a specific position which may be extended for up to six (6) months.

### **7.02 INITIAL PROBATION**

- A. A new or rehired employee, including those who previously served as temporary, unclassified and/or contract employees, selected for a regular status position through certification from a register, in accordance with these Rules, must serve the established initial probationary period upon his/her most recent hire into a classified position.
- B. If in the judgment of the appointing authority, the employee does not meet the required performance standards, the appointing authority may either extend the probationary period, demote or release the employee. In any case, the employee must be given written notice of the action taken by the appointing authority prior to the expiration of the established probationary period or the employee will be considered to have successfully completed the probationary period.
- C. An employee may be suspended, demoted or released at any time during the probationary period without right of appeal.

### **7.03 PROMOTIONAL PROBATION**

An employee who is promoted shall serve the established probationary period in the new position. If in the judgment of the appointing authority, the employee does not meet the required performance standards, the appointing authority may either extend the probationary period or attempt to place the employee in another position.

- A. If the appointing authority determines that the probationary period is to be extended, the employee must be given written notice of the extension prior to the expiration of the probationary period or the employee will be considered to have successfully completed the probationary period.
- B. If the appointing authority determines that the employee has failed to complete the probationary period, the employee must be reverted to an available position at a lower pay grade within the department for which the employee qualifies, except that if the employee was promoted from a different department and there is an available vacant position at a lower pay grade in the former department for which the employee qualifies, the employee may be placed in that position with the concurrence of the former appointing authority.
- C. An employee shall be dismissed only if efforts to find another available position are unsuccessful. The only basis for appeal of such dismissal is that the appointing authority failed to comply with the procedures stated in 7.03 B; an appointing authority's decision that the employee failed to successfully complete promotional probation may not be appealed.

- D. NOTE: An available position is a position that the appointing authority of a department has determined there is a need to fill, is funded, and that the appointing authority has been authorized to fill. No appeal may be based upon an appointing authority's decision not to fill or fund a particular position.

## **RULE 8 - TRANSFERS, PROMOTIONS, REASSIGNMENTS, DEMOTIONS, FURLOUGHS**

### **8.01 TRANSFER**

- A. An employee who has successfully passed initial probation may apply for a transfer from a position under one appointing authority to another position under a different appointing authority. The employee must give proper notice to the losing appointing authority. Proper notice is defined as two weeks but not longer than thirty calendar days as agreed to by the affected departments.
- B. In the event that part or all of the functions of one department are transferred to another department, the affected employee(s) of the transferring department shall be accepted as transfers by the receiving department at the same pay grade unless the receiving department has no need for the particular position(s). In the latter event, the Rule concerning reduction-in-force will apply.
- C. With the concurrence of the losing and gaining appointing authorities and affected employee, the Director may approve a transfer of an individual whose record is satisfactory to another position at the same or lower pay grade for which the employee qualifies.

### **8.02 PROMOTION**

Vacancies in the classified service shall be filled by competitive promotion whenever practicable and in the best interest of the county. Promotions shall be made in accordance with the procedures established in these Rules.

### **8.03 REASSIGNMENT**

At the discretion of the appointing authority, employees may be reassigned from one position control number to another under the same appointing authority at the same pay grade.

### **8.04 DEMOTION**

- A. An employee with regular status may be involuntarily demoted for cause.
- B. An appointing authority may approve an employee's written request for a demotion within the same department. In such cases, the demotion will be deemed to have been made on a voluntary basis and there shall be no right of appeal. A copy of the employee's written request shall be filed with the Director by the appointing authority.
- C. When an employee is demoted, the employee must meet the qualifications and assessment process(es) in effect for that position at the time of demotion.

### **8.05 FURLOUGHS**

- A. Furloughs are a means of accomplishing a budget reduction initiative brought on by a budget deficit or shortfall. A furlough is mandatory unpaid leave of one or more days, and is not a reduction in the compensation or hourly rate of pay of a classified employee.

B. Furloughs should be used as a secondary measure to accomplish a budget reduction when reductions in force would significantly impact a department's work force that the department would no longer be able to effectively perform its mandated or primary functions.

1. To the extent possible, furloughs and reductions in force contemplated as part of a budget reduction initiative should be addressed in a department's budget proposal submitted to the Office of Management and Budget (OMB) for the forthcoming fiscal year. All tentative department budgets will be submitted to the Board for approval. Every department contemplating a furlough or reduction in force of its employees must comply with any related OMB budget policies, but must at a minimum provide an explanation why furloughs are necessary, either in addition to, or instead of reductions in force, and must identify all market range titles in the department that will be subject to the proposed furlough requirements.

C. The following rules apply to the furloughs of classified employees:

1. A classified employee on furloughed status shall accrue leave and is still eligible for holiday pay if a furlough is taken before or after a holiday, or other paid time off, as appropriate.
2. Employees subject to a furlough will not at a later time be compensated for their unpaid furlough days.
3. The furlough of any classified employee who is exempt from the wage and hour requirements of the Fair Labor Standards Act (FLSA) shall be managed in a manner that is consistent with the provisions of the FLSA and with the provisions of any other state or federal laws that may apply. Departments should require FLSA exempt employees to take furlough days over the least number of workweeks as possible.
4. Employees are not to perform any work for the County whatsoever while they are on furlough status.
5. A classified employee subject to a furlough requirement is not entitled to appeal the basis for or extent of a furlough. However, a classified employee subject to a furlough requirement may appeal to the Merit Commission only on the grounds that the furlough was imposed in an arbitrary manner that negatively impacted the employee more than other similarly situated employees in the employee's division in the same market range title.

## **RULE 9 - SEPARATIONS AND DISCIPLINARY ACTIONS**

### **9.01 GENERAL PROVISIONS**

Except as otherwise provided in these Rules, the tenure of a regular employee shall continue during good behavior and the satisfactory performance of duties.

### **9.02 REDUCTION IN FORCE (RIF)**

- A. A regular employee may be separated from the classified service through a reduction in force whenever such an action becomes necessary because of a lack of funds, lack of work, or abolishment of position.
- B. When a reduction in force is determined by an appointing authority to be necessary, the appointing authority will notify the Director who will establish, in conjunction with the appointing authority, the order of the reduction in force for as many employees as are to be separated. In determining the order of a reduction in force for regular employees, the Director and appointing authority shall agree upon the factors and their weightings to be used to calculate retention points. The factors and their weightings shall be consistent and equitably applied to all regular employees occupying substantially similar positions within the affected department. The Director and appointing authority shall identify and agree upon the employees whose duties warrant their being grouped together for purposes of determining their respective retention points, and the resulting determination of the order in which they may be RIFed.
- C. The appointing authority shall attempt to place affected employees in other available positions on the same or lower pay grade within the department for which the employees qualify. No regular employee shall be separated through a reduction in force while there are temporary, contract or initial probationary employees serving under the appointing authority on the same or lower pay grade for which the regular employee is qualified and available for assignment. The Director will provide placement assistance to the remaining employees in competing for other vacancies in the county service.

### **9.03 DISMISSALS, SUSPENSIONS, AND DEMOTIONS**

- A. The appointing authority may suspend, involuntarily demote or dismiss a regular employee only for cause as provided in these Rules. Prior to such action the appointing authority shall cause to be transmitted to the employee, a written statement indicating the action that is proposed to be taken, the sections of the Resolution, Rules, County administrative policies and/or procedures, or departmental rules violated, and the specific reasons for the action in sufficient detail to apprise the employee of the factual circumstances which justify the action. Transmittal to the employee shall be made either by delivering the letter to the employee personally or by certified mail to the employee's last known address on file in the official personnel file of the Human Resources Department. The appointing authority shall include in the statement to the employee notice of the employee's right to present reasons why the proposed action should not be taken at a meeting with the appointing authority. The employee may waive the opportunity to present the reasons in person or may do so in writing. If the

employee does not appear at the designated time, date and location for the meeting or fails to present written reasons by the time and date for the meeting, the employee will be deemed to have waived the opportunity to present why the proposed action should not be taken.

B. The appointing authority may, after giving the employee an opportunity to provide reasons as provided above, affirm, reduce or abandon the proposed action by providing written notice of the appointing authority's final decision to the employee, the Clerk of the Board and the Director.

1. Unless formal discipline is abandoned, the notice shall state that the employee has a right to appeal in writing to the Commission within ten business days from the date of personal delivery or certified mailing of the appointing authority's written final decision. Transmittal to the employee shall be made either by delivering the letter to the employee personally or by certified mail to the employee's last known address on file in the official personnel file of the Human Resources Department.

2. In the event the appointing authority decides to increase the proposed discipline, a new notice and opportunity to provide reasons why the action should not be taken, shall be provided.

C. Each of the following constitutes authorized cause for suspension, involuntarily demotion or dismissal of a regular employee under these Rules:

1. Fraud in securing or maintaining employment.

2. Incompetency.

3. Inefficiency.

4. Abuse of leave.

5. Neglect of duty.

6. Insubordination.

7. Dishonesty.

8. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, tranquilizer, hallucinogenic or any other drug listed and/or defined in ARS § 13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or in the lawful performance of the employee's regularly assigned duties.

9. Violation of a Board authorized policy which supports a drug-free workplace or which opposes substance abuse.

10. Absence without authorized leave.

11. Charged with the commission of a criminal act which affects the employee's suitability for continued employment.

12. Conviction of a criminal act of which affects the employee's suitability for continued employment.

13. Discourteous treatment of the public or fellow employees.

14. Improper political activity as proscribed by state or federal law or by this Resolution.

15. Unlawful discrimination, including harassment, by an employee against or in favor of another person.

16. Misuse of government property.

17. Violation of county or departmental policies or procedures.

18. Violation of Code of Ethics.
- D. Inability for medical reasons is cause to dismiss but connotes no improper conduct on the part of the employee nor does it contemplate corrective or progressive steps.

#### **9.04 SUSPENSION, DEMOTION OR DISMISSAL DURING INITIAL PROBATION**

An initial probationary employee may be suspended, demoted or dismissed at any time with or without cause and without the right of appeal. However, in any case of suspension, demotion or dismissal during an employee's initial probationary period, the Director may investigate the circumstances and causes for the action taken to ensure compliance with state and federal law.

#### **9.05 RESIGNATION AND RETIREMENT**

A regular employee who desires to resign or retire from county service is expected to submit a written notice to the appointing authority at least 14 days prior to the effective date of the resignation or retirement.



## **RULE 10 - APPEALS**

### **10.01 MATTERS WHICH MAY BE APPEALED**

A regular employee who is suspended, involuntarily demoted, dismissed, and to the limited extent provided by the Resolution and Rules, separated by a reduction in force or placed on furlough status, may appeal to the Commission.

### **10.02 APPEAL**

- A. The appeal shall be in writing and filed with the Director or designee, as ex officio Clerk of the Commission, not later than ten business days following the date of personal delivery or certified mailing of the final decision of the appointing authority. The appeal shall be considered filed when received by the Director.
- B. The appeal shall state the facts upon which it is based and the action requested of the Commission. The appeal shall provide in sufficient detail the necessary facts and identities of all persons or departments concerned in a manner that the Commission may understand the nature of the situation and appeal. Unless the appeal names some other respondent, the appointing authority who initiated the appealable action shall be considered the respondent. A copy of such appeal shall be forwarded by the Director to the appointing authority of the employee and to the Commission.

### **10.03 ANSWER**

No answer to the appeal is required. If an answer is filed prior to the hearing, a copy thereof shall be sent by the Director or hearing officer to the appellant. If no answer is filed, every relevant and material allegation of the appeal is in issue, but in any case, irrelevant and immaterial issues may be excluded.

### **10.04 HEARING OFFICERS**

An appeal may be assigned by the Commission or its chairperson to a hearing officer for hearing. Hearing officers assigned shall be individuals who have training and knowledge of merit system principles. When appeals are assigned to hearing officers, they shall be the authorized representative of the Commission (in accordance with 10.07), and are fully authorized and empowered to grant or refuse extensions of time, to set such proceedings for hearing, to conduct the hearing, and to take any action in connection with the proceedings which the Commission itself is authorized to take by law or by these Rules other than issuing the final findings of fact, conclusions of law and order. No assignment of an appeal to a hearing officer shall preclude the Commission or its chairperson from withdrawing such assignments and conducting the hearing itself or from reassigning an appeal to another hearing officer.

### **10.05 TIME FOR HEARING**

Every hearing shall be scheduled to commence within 20 business days from receipt of an appeal by the Commission unless the time is extended upon mutual consent of the parties or upon good cause shown to the assigned hearing officer.

#### **10.06 NOTICE OF HEARING**

Written notice of the time, date, place of the initial hearing of an appeal and the name of the hearing officer, if any, shall be served by the Director on the appellant and the respondent at least seven calendar days before the date of such hearing. This notice shall be delivered personally or by certified mail.

#### **10.07 NATURE OF HEARING**

Hearings shall be closed to the public, unless the appellant requests an open hearing. Parties may represent themselves or be represented by legal counsel, or a lay representative, of their choosing. The hearing shall be informal and technical rules of evidence shall not apply to the proceedings, except that irrelevant, immaterial, incompetent or unduly repetitious evidence or evidence protected by the rules of privilege recognized by law may be excluded. Each party will have a maximum of three and one-half (3.5) hours to present the case including opening statement; direct exam, cross exam, and re-direct/re-cross of witness; objections; and closing argument. Time spent on cross examination and re-cross counts against the total time allotted to the party conducting the examination. The Hearing Officer shall have the authority to grant up to an additional 7 hours (total) of testimony. The Hearing Officer shall not allow testimony beyond 14 hours total without prior approval from the Employee Merit System Commission chairman or designee. All testimony at the hearing shall be recorded manually or by recording device and becomes public information at the conclusion of taking testimony.

#### **10.08 EXCLUSION OF WITNESSES**

Upon the motion of any appellant or respondent, the hearing officer may exclude from the hearing room any witnesses not at the time under examination; parties to the proceedings, or their attorneys or other person representing them, shall not be excluded.

#### **10.09 COUNTY EMPLOYEES CALLED AS WITNESSES**

County employees called as witnesses to attend a hearing shall be paid their base pay rate for the time spent.

#### **10.10 WITNESS FEES FOR OTHER THAN COUNTY EMPLOYEES**

Witnesses, other than employees, when subpoenaed to attend a hearing are entitled to the same fee as is allowed witnesses in civil cases in courts of record. If a witness is subpoenaed by the hearing officer, fees and mileage may be paid upon presentation of a duly executed claim against Maricopa County. If a witness is subpoenaed upon request of the appellant or respondent, the fees and mileage shall be paid by the party requesting the witness.

#### **10.11 DEPOSITIONS**

If a witness does not reside within the County or within 100 miles of the place where the hearing is to be held, is out of the state, or is too infirm to attend the hearing, parties thereto at their own expense may cause a deposition to be taken in compliance with the applicable provision of the state rules of civil procedure. If the presence of a witness cannot be procured at the time of hearing, the deposition may be used in evidence by either party or the Commission.

#### **10.12 DUTIES OF THE HEARING OFFICER**

At the conclusion of the hearing, hearing officers shall prepare proposed findings of fact and conclusions of law in a form acceptable to the Commission. A copy of the proposed findings and conclusions shall be filed by the hearing officer with the Commission within 35 days of the case being submitted for decision. The hearing officer may be requested to be present during the consideration of the case by the Commission and, if requested, shall assist and advise the Commission.

#### **10.13 FILING OF WRITTEN OBJECTIONS**

Both appellant and respondent shall receive copies of the findings of fact, conclusions of law and recommendations of the hearing officer. The parties shall have ten days from receipt of the hearing officer's report to file written objections (not post-hearing evidence) to the hearing officer's report. A copy of the written objections shall be provided to the parties.

#### **10.14 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The Commission shall, upon receipt of the hearing officer's report and any written objections, make written findings of fact, conclusions of law and issue an order as soon as practicable at a scheduled Commission meeting. A copy shall be sent by certified mail to the appellant and the respondent at the addresses given at the hearing or to a representative designated to receive same, or hand delivered.

#### **10.15 WITHDRAWAL OF AN APPEAL**

The appellant may submit a written request to withdraw an appeal at any time prior to the decision by the Commission.

#### **10.16 DECISION BY COMMISSION**

A majority of the Commission members present at the meeting may adopt the hearing officer's report in its entirety, or modify it, or may itself decide the case upon the record, with or without taking additional evidence. If, after the hearing, a majority of the Commission members present at the meeting where the vote is taken, determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise the appeal shall be dismissed. The Commission shall have the power to determine the amount of back wages and leave accruals, where appropriate, and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the county service.

#### **10.17 COMPLIANCE OF APPOINTING AUTHORITY**

- A. In the event the Commission orders the respondent to reinstate the appellant, it may also order the respondent to reinstate the appellant with or without back pay for such period and in such amounts as the Commission deems proper under the circumstances giving due consideration, among other things, to any time delays requested by the appellant throughout the course of the appeal.
- B. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in ARS § 12-901 et seq.
- C. The appointing authority has 35 days from the date of the decision of the Commission to either file for an administrative review or to take such measures as are necessary to comply with the decision of the Commission.

## **RULE 11 - CODE OF ETHICS**

### **11.01 CONDUCT AND REQUIREMENTS IN GENERAL**

- A. The maintenance of high standards of honesty, integrity, impartiality and conduct by county employees is essential to assure the proper performance of county business and the maintenance of confidence by citizens in their county government.
- B. Employees shall conduct themselves in such a manner that the work of the county is effectively accomplished; they shall be courteous, considerate and prompt in dealing with and serving the public and shall conduct themselves in a manner that will not bring discredit or embarrassment to the county.
- C. Employees shall observe the applicable laws and regulations governing participation in political activities and conflict of interest, and shall avoid any discrimination because of race, color, religion, national origin, sex, political affiliations, age or disability. Employees shall economically utilize, protect and conserve property of Maricopa County entrusted to them. They shall conduct all their official activities in a manner which is above reproach and free from any indiscretions or acceptance of gratuities or favors which cast doubt or suspicion upon themselves or the county department which employs them.

### **11.02 SPECIFIC CONDUCT AND RESPONSIBILITIES**

- A. County employees shall not use their official position for personal gain. Public influence and confidential or "inside" information must never be used for personal advantage.
- B. Conflict of interest laws (ARS § 38-501 et seq.) must be scrupulously observed. Employees must disclose their interest, if any, in the official records of the employing department and shall not participate in or vote for any contract, sale, purchase, or service in which they have an interest.
- C. Classified employees shall not act in a private capacity which may be construed by the public to be an official act without prior written approval of their appointing authority.
- D. An employee shall not accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is or may appear to be designed to, in any manner, influence official conduct, particularly from a person who is seeking to obtain contractual or other business or financial arrangements with the employing department, or who has interests that might be substantially affected by the performance or non-performance of the employee's duty. This provision does not prohibit:
  - 1. Acceptance by an employee of food and refreshments of insignificant value on infrequent occasions in the course of a meeting, conference, or other occasion where the employee is properly in attendance.
  - 2. Solicitation or acceptance by an employee of loans from banks or other financial institutions on customary terms to finance proper personal activities of the employee.

3. Acceptance of unsolicited advertising or promotional material such as pens, pencils, calendars and other items of nominal value.
- E. The employee shall not directly or indirectly use or allow the use of county property of any kind, including property leased to the county, for other than officially approved activities. All employees have a duty to protect and conserve county property, including equipment, supplies and other property entrusted or issued to them.
  - F. Employees must never permit themselves to be placed under any kind of personal obligation which could lead any person to expect official favors.
  - G. Employees' official acts must reflect impartiality. All official decisions and actions must be determined by impersonal considerations, free from any favoritism, prejudice, personal ambition or partisan demands.
  - H. No person shall be employed in a position in a reporting line of supervision to a relative of his or her family. In the event an appointing authority determines a relative has been placed in a reporting line of supervision, an appropriate course of action will be determined in consultation with the Director. An employee's spouse, domestic partner, mother, father, sister, brother, son, daughter, in-laws, aunts, uncles, grandparents, grandchildren and custodial person are defined as "relatives" for this purpose.
  - I. Employees shall notify the appointing authority in writing of any outside employment. Employees shall not engage in outside employment or other outside activity which is not compatible with the full and proper discharge of duties and responsibilities of their county employment, or which tends to impair their capacity to perform their county duties and responsibilities in an acceptable manner.